03

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 3131 **/2005**

PETITIONERS :-

1] Radheshyam Baghel
aged about 54 years,
S/o Late Shri R.P. Baghel,
Assistant Director, at O/O
D.E.O., Legal Cell, Raipur.
R/o Tatyapara, Raipur.

2] Aditya Lal Tikariya,
aged about 57 years,
S/o Shri Sukh Lal Tikariya
Assistant Director, at O/O
D.E.O., Legal Cell, Raipur.
R/o Tatyapara, Raipur.

3] G.R. Sahu,
aged 57 years,
S/o Shri Laxman Singh
Assistant Director, at O/O
D.E.O., Legal Cell, Raipur.
R/o Tikrapara, Raipur.

4] V.K. Shram,
aged about 60 years,
S/o Shri U.D. Sharma,
Lecturer, Assistant Director, at
O/O D.E.O., Legal Cell, Raipur.
R/o Tikrapara, Raipur.

5] R.S. Chauhan,
aged about 44 years,
S/o Shri K.S. Chauhan,
Lecturer, Assistant Director, at
O/O D.E.O., Legal Cell, Raipur.
R/o Shailendra Nagar, Raipur.

P.R. No. 3257/05
Presented by Shri RK Kesharwani
dated 12/7/05

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12.7.
CLERK to A. G. BILASPUR

VERSUS

RESPONDENTS :-

1] State of Chhattisgarh
Through the Secretary,
School Education Department,
Mantralya, D.K.S. Bhavan,
Raipur [C.G.].

2] The Director of Public
Instructions, Chhattisgarh,
Pension Bada, Raipur [C.G.].

3] The District Education Officer,
Raipur [C.G.].

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH, AT BILASPUR

WRIT PETITION NO. 3131 OF 2005

Radheshyam Baghel and others

Versus

State of Chhattisgarh and others

Shri Ravish Verma with Shri R.K. Kesharwani, Advocates for the petitioners.

Shri Bhaskar Pyashi, Panel Lawyer for the State/respondents No. 1 to 3 on advance copy.

ORAL ORDER
(27-07-2005)

The following order has been passed by Hon'ble Shri **Sunil Kumar Sinha, J**

Shri Ravish Verma with Shri R.K. Kesharwani, Advocates for the petitioners.

Shri Bhaskar Pyashi, Panel Lawyer for the State/respondents No. 1 to 3 on advance copy.

I.A. No. 6171 of 2005:

This is an application for urgent hearing.

The matter is taken up on Board. I.A. No. 6171 of 2005 for urgent hearing stands disposed of.

W.P. No. 3131 of 2005:

Heard on admission.

The petitioners are presently working on various posts in the Legal Cell, Raipur situated at Raipur. They have challenged the validity of impugned order dated 30.06.2005 (Annexure-P/1) by which the State Government has transferred the entire

establishment of Legal Cell at Raipur to Bilaspur in the office of District Education Officer, Bilaspur.

Learned counsel for the petitioners submits that this Legal Cell was functioning at Raipur which is new capital of State and in all fairness and public interest, this Cell should not have been ordered to be transferred to Bilaspur. He further submits that looking to the different institutions situated in the capital of the State, it would be better if this Cell is allowed to continue at Raipur itself instead of Bilaspur.

I have heard, learned counsel at length and also perused the records filed along with writ petition.

The petitioners have filed a circular dated 29.10.1999, which has been issued by the Director, Public Education Directorate (M.P.) defining the works of the Legal Cell. Para-2 of the aforesaid circular is quoted as under:-

> "2.1 *महत्वपूर्ण न्यायालयीन प्रकरणों में विभाग द्वारा संयुक्त संचालक/सहायक संचालक विधि को प्रभारी अधिकारी नियुक्त किये जाने पर संबंधित अधिकारियों द्वारा समयावधि में प्रत्यावर्तन प्रस्तुत करना ।*
>
> 2.2 *जिन प्रकरणों में वरिष्ठ कार्यालय के अधिकारी प्रभारी नियुक्त हैं, उनमें निर्देशानुसार आवश्यक कार्यवाही करवाना ।*
>
> 2.3 *जिन प्रकरणों में जिला शिक्षा अधिकारी, विकासखण्ड शिक्षा अधिकारी तथा प्राचार्य आदि प्रभारी अधिकारी हों, उनमें आवश्यकतानुसार मार्गदर्शन प्रदान करना तथा अभिलेखों के आधार पर प्रारंभिक उत्तर बनवाने में सहयोग देना ।*
>
> 2.4 *मुख्य सचिव/प्रमुख सचिव/आयुक्त लोक शिक्षण एवं अन्य वरिष्ठ अधिकारियों के विरूद्ध अप्रिय स्थिति के संबंध में तुरन्त दूरभाष या फैक्स से संबंधित अधिकारी/प्रभारी अधिकारी को सूचना देना तथा ऐसी स्थिति को दूर करने के लिए समस्त आवश्यक कार्यवाही करना ।*

2.5 माननीय न्यायालय में जैसे ही याचिका प्रस्तुत होती है, उसकी छायाप्रति/मूलप्रति प्राप्त कर एकतरफा आदेश नहीं होने के संबंध में शासकीय अधिवक्ता से सम्पर्क कर आवश्यक कार्यवाही करना जिससे याचिका एडजिट न हो सके एवं स्थगन आदेश भी जारी नहीं हो सके ।

2.6 न्यायालय में प्रस्तुत प्रकरण में प्रभारी अधिकारी अतिशीघ्र नियुक्त हो जाये इसके लिये समस्त आवश्यक कार्यवाही करना ।

2.7 प्रभारी अधिकारी को याचिका की प्रति भेजकर तुरन्त प्रत्यावर्तन प्रस्तुत करवाना ।

2.8 संबंधित शासकीय अधिवक्ता/अधिवक्ताओं से सतत् सम्पर्क करना तथा स्कूल शिक्षा विभाग से संबंधित प्रकरणों में माननीय न्यायालयों के निर्देश अनुसार कार्यवाही सुनिश्चित करवाना ।

2.9 यदि किसी प्रकरण में न्यायालय द्वारा आदेश पारित किया जाता है तो उक्त आदेश का पालन नियमानुसार सुनिश्चित करवाना इसके लिये आवश्यक होने पर वरिष्ठ अधिकारियों/प्रभारी अधिकारियों से व्यक्तिगत सम्पर्क स्थापित करना ।

2.10 यदि निर्णय शासन की नीति एवं नियम विरूद्ध है तो अपील समय–सीमा में प्रस्तुत करवाना ।

2.11 यदि अवमानना की स्थिति निर्मित होती है तो वरिष्ठ अधिकारी तथा प्रभारी अधिकारियों को सूचित करना तथा अवमानना समाप्त कराने की समस्त कार्यवाही करना ।

2.12 निर्धारित प्रारूप में न्यायालय एवं अधिकरण के अनुसार दायर प्रकरणों की पूंजी वर्षवार संधारित करना । यह पंजी दो प्रतियों में होगी । आयुक्त लोक शिक्षण द्वारा आयोजित समीक्षा बैठक में संयुक्त संचालक विधि स्वयं यह पंजी लेकर उपस्थित होंगे ताकि प्रकरणवार समीक्षा हो सके । यह पंजी बैठक में एक दिन पूर्व संचालनालय के अधिकृत सहायक संचालक को उपलब्ध कराना होगा । ताकि संचालनालय का कम्प्यूटर रिकार्ड में अद्यतन हो सके एवं समीक्षा में आसानी हो सके ।

2.13 विभागीय निर्देशानुसार क्षेत्रांतर्गत जिला शिक्षाधिकारियों की न्यायालय समीक्षा बैठक आयोजित करना तथा न्यायालयीन प्रकरणों में शासन पक्ष समर्थन में आने वाली कठिनाईयों के निराकरण में मार्गदर्शन हेतु कार्यशाला सेमीनार आदि का आयोजन करना ।

2.14 न्यायालयीन प्रकरणों में लापरवाही/उदासीनता आदि बरतने वाले प्रभारी अधिकारी/संबंधित अधिकारी/कर्मचारी के विरुद्ध अनुशासनात्मक कार्यवाही प्रस्तावित करना तथा विभागीय निर्देशानुसार जांच आदि कार्य सम्पन्न करना ।"

If we examine the work and liability of the Legal Cell then it would appear that the Cell has been established for doing various works, in relation to the matters pending before the Courts of law and other institutions. In fact, it has been established to facilitate the judicial work to be performed by Courts and Tribunals in which there is a participation of the department concerned. In the opinion of this Court, this is a matter of public interest in which interference in ordinary manner is not called for.

Where a Cell of such a nature should be established and where it shall work more facilitating the dispensing of justice is a subject matter of complete dominion of State and unless the State has exercised any jurisdiction not vested in it by law or has transgressed any provision of law or has passed an order obligatory and effecting rights of the parties, it does not warrant interference from a court of law. I am not inclined to entertain this writ petition for quashing of the impugned order date 30.06.2005 (Annexure-P/1) and the petition so far as, it relates to prayer for quashment of the impugned order stands dismissed.

At this stage, learned counsel for the petitioners submits that most of the petitioners are senior persons and if they are also transferred from Raipur to Bilaspur along with establishment of Legal Cell, it shall cause great hardship to

them and their family and the education of their children, who are said to be studying at Raipur, shall also be affected. He also submits that so far as the matter in relation to the transfer of these employees are concerned, an opportunity may be granted to them for making a representation to the concerned authority and the concerned authority may be directed to dispose of their representation in an objective manner on some early date so that they may remain at Raipur instead of Bilaspur.

In light of the above submissions, so far as transfers of the petitioners are concerned, a liberty is granted to the petitioners to make a representation to the concerned authority and if such a representation is filed within a period of 15 days from today, the concerned authority is directed to dispose of their representation in accordance with law as early as possible preferably within a period of one month from the date of filing of the said representation.

It is made clear that no liberty is granted to the petitioners to question the legality of order transferring the Cell from Raipur to Bilaspur dated 30.06.2005 (Annexure-P/1) and their representation shall be restricted to their personal transfer from Raipur to Bilaspur.

With the aforesaid observations, the petition stands finally disposed of.

Consequently, M.W.P. No. 2644 of 2005 also stands disposed of.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge

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